

REMARKS/ARGUMENTS

Claims 1, 8, 46-51, 53-67, 69-76, 78, 80-88, and 90-128 are pending in this application. Claims 1, 8, 72-76, 78, 80, 81, 104-117, and 122 are currently withdrawn as being drawn to a non-elected invention. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123-128 stand rejected under 35 U.S.C. §103 as unpatentable over US Patent No. 5,790,642 (Taylor) in view of U.S. Patent No. 6,161,099 (Harrington).

The independent claim 46 recites "in the moderating computer, receiving bids to provide telecommunication service over at least one route, or at least one route segment, on at least one telecommunication network, processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first bidding data" and "in the moderating computer, transmitting at least a portion of the first bidding data, including at least a portion of the processed bid data, to at least a portion of the at least two telecommunication Providers". Accordingly, claim 46 requires that 1. processed bid data is produced from the bids, 2. both bids and processed bid data are stored in a database of the moderating computer and 3. at least a portion of the processed bid data is transmitted to at least a portion of the at least two telecommunication Providers.

As stated in MPEP §2143, to reject a claim based on a combination of references, Office personnel must articulate the following:

- (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;

- (2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately;
- (3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and
- (4) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

The combination of Taylor and Harrington fails meet at least the first requirement because the combination of Taylor and Harrington fails to disclose, teach, or suggest the element of "in the moderating computer, transmitting at least a portion of the first bidding data, including at least a portion of the processed bid data, to at least a portion of the at least two telecommunication Providers".

As acknowledged by the Examiner, Taylor fails to disclose the above limitation. But, the Examiner refers to col. 8, lines 1-50 and states that since Taylor sends a bid request to the telecommunication providers and that bid requests are data and can be considered to be the claimed processed bid data. However, that interpretation of Taylor is incorrect for the following reasons. The bid requests of Taylor are generated before the bids are received and, thus, cannot be considered to be produced from the bids (see Fig. 3). More specifically, a provider in Taylor constructs a bid in response to a specific bid request by a potential customer. As stated above, the Examiner insinuates that since a bid request in Taylor is data, it can be considered to be the claimed processed bid data. However, the claimed invention expressly recites that processed bid data is generated from the bids, and that at least a portion of the processed bid data (i.e., that is different from the original bids) is transmitted to the telecommunication Providers. Since the bid requests of Taylor are generated before the bids and separate from the bids, Taylor fails to disclose anything

about processing bids to produce processed bid data and then transmitting the processed bid data to the telecommunication providers, as expressly recited in independent claim 46.

Harrington fails to disclose what Taylor lacks. Harrington discloses a process and apparatus for conducting auctions over electronic networks. According to Harrington, a current best bid is displayed. But this does not constitute the claimed step of “in the moderating computer, transmitting at least a portion of the first bidding data, including at least a portion of the processed bid data, to at least a portion of the at least two telecommunication Providers”. In contrast, Harrington fails to teach or suggest that the information is transmitted anywhere. Rather, the auctioneer’s website is accessed by Users (see col. 6, lines 41-43).

The Examiner refers to col. 10, line 42 - col. 11, line 5 of Harrington and states that the users/bidders of Harrington read on the claimed telecommunication providers. Even if that were true, that portion of Harrington still fails to disclose, teach or suggest that at least a portion of processed bid data is transmitted to the users/bidders. As stated above, the users/bidders must access the auctioneers site to obtain the information.

Thus, the combination of Taylor and Harrington fails to teach or suggest “in the moderating computer, transmitting at least a portion of the first bidding data, including at least a portion of the processed bid data, to at least a portion of the at least two telecommunication Providers”, as expressly recited in independent claim 46.

Independent claims 53, 63, 82, and 88 each recite similar limitations and should be allowable for at least the same reasons as is claim 46.

Dependent claims 47-51, 54-62, 64-67, 69-71, 83-87, 90-103, 118-121, and 123-128, are allowable for the same reasons as are independent claims 46, 53, 63, 82, and 88, as well as for the additional recitations contained therein.

The application is now deemed to be in condition for allowance and notice to that effect is solicited.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to resolve any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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